

San Jose Mercury News
June 26, 2003

Officials seek to preserve state's rules on food safety; seeds of dissent

By Kristi Heim; Mercury News Seattle Bureau

As the global debate over genetically altered foods continues, California officials are worried that the state's relatively stringent regulations on food safety and quality could be trumped by international or bilateral trade agreements that seek to harmonize standards worldwide.

Such trade agreements could limit state control over the rapidly growing biotechnology industry, contends state Sen. Liz Figueroa, D-Fremont, who chairs the Senate Select Committee on International Trade Policy and State Legislation.

In Sacramento on Wednesday, ministers from more than 100 countries wrapped up a three-day meeting sponsored by the U.S. Department of Agriculture on ways to use science and technology to boost agricultural productivity and curb hunger. Thousands of demonstrators protested the government's promotion of genetically modified foods, saying the technology is being foisted on developing countries while health risks are unknown.

Meanwhile, the Senate committee held a hearing Tuesday to address potential conflicts between international trade policy and state law.

"The federal administration is not one to necessarily listen to what is happening in California," Figueroa said. "California is the sixth-largest economic power in the world, and we definitely need to have a firmer and louder voice."

At issue are current state laws that require warning labels on products containing possible carcinogens, define what foods can be labeled "organic" and ban state procurement of products made with slave labor, she said.

In the future, a legal clash could arise if California requires labeling of food containing genetically modified organisms (GMOs) or bans them altogether.

Northern California is a hub for cutting-edge biotech research. Universities and companies are testing plants that resist pests, boost vitamin intake and even carry vaccines. Yet some state consumers remain wary of modified foods, and California organic farmers are concerned that genetically engineered crop seeds will move and contaminate their fields.

While the U.S. Department of Agriculture promotes genetically engineered crops as safe, some countries are resisting them.

The U.S. government has been pushing to end a European Union ban on genetically modified foods and plans to take its case to the World Trade Organization. U.S. officials are relying on trade law principles that limit "precautionary" regulations in favor of those based on scientific evidence.

Figueroa and others are concerned that such laws could be used by other countries to retaliate against some of California's health and safety standards, which are based on potential risk.

Proposition 65, for example, requires companies using any carcinogenic material in products sold in California to provide warning labels unless they can demonstrate that exposure to the product poses no significant risk.

"There are definitely some conflicts with WTO agreements," Figueroa said. For example, a state ban on procurement of forced-labor products could come under fire because it goes against trade laws that prohibit distinctions between products based on the process or production method, she said.

California farmers want U.S. trade representatives to work on lowering trade tariffs and government subsidies, said Lisa Dillabo, director of international trade at the California Farm Bureau. But when negotiating trade deals, they should also consider the high standards that state farmers have to follow as they compete in a global marketplace.

Concerned about the potential conflicts, the California attorney general's office is watching international trade disputes closely, said Deputy Attorney General Will Brieger.

"States need to assert their interest as early as possible in the negotiation of these trade agreements," he said.

Any state law that a foreign country or corporation perceives as an obstacle to doing business could potentially be challenged, he said. If a challenge proved successful, an arbitration panel could require the U.S. government to pay damages. Federal officials could also seek to strike down the state law as interfering with trade.

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LOAD-DATE: June 26, 2003